

REMARKS

Claims 7-22 are now present in this application.

The Abstract and specification have been amended, claims 1-6 have been canceled without prejudice or disclaimer, and claims 7-22 have been presented. Reconsideration of the application, as amended, is respectfully requested.

It is noted that the instant application is the National Phase of a PCT application. As set forth in the Notification of Missing Requirements mailed by the U.S. Patent and Trademark Office on November 1, 2001, the priority document has been received by the U.S. Patent and Trademark Office. Thus, it would seem that the Office Action Summary, item 13, would be in error. The priority document should have been provided to the U.S. Patent and Trademark Office by the International Bureau. Acknowledgement of receipt of this priority document by the Examiner is respectfully requested.

Claim 6 stands objected to for a certain informality. It is noted that this informality was addressed by the Preliminary Amendment filed on September 11, 2001. Nonetheless, because this claim has now been cancelled, this informality should now be overcome.

Claims 2, 4 and 6 stand rejected under 35 USC 112, second paragraph. This rejection is respectfully traversed.

It is respectfully submitted that the claims should particularly point out and distinctly claim the subject matter of the instant invention. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1 and 5 stand rejected under 35 USC 102(b) as being anticipated by REILLEY, U.S. Patent 6,098,856. This rejection is respectfully traversed.

Claims 1-4 and 6 stand rejected under 35 USC 103 as being unpatentable over VERINA, U.S. Patent 5,335,834 in view of BUSH, U.S. Patent 4,484,700. This rejection is respectfully traversed.

Concerning the patent to REILLY, this patent has an issue date of August 8, 2000. The international filing date for the above-identified application is March 10, 2000. Thus, it would be inappropriate for the Examiner to use this reference in a 102(b) rejection. Moreover, this reference fails to disclose a device for carrying a child as set forth in independent claims 7 and 15 of the present application. Both of these claims recite a seat section and leg section. The seat section is a cushion saddle. In claim 15, the leg section has means for receiving the feet of the child and for encouraging an upright sitting posture. These means include the stirrups, which at least partially carry the weight of the child. In independent claim 7, the leg section has the stirrups, which also encourage the upright sitting posture of the child.

With the present invention, a child can be carried in a seated position upon the shoulder of an adult where a correct, upright sitting position of the child is encouraged. The weight supported on the adult is carried as correctly and ergonomically as possible by the adult. Figs. 4 and 5 of the present application show a different in such carrying. It is desirable to have the spine 26 of the child as close as possible in vertical alignment, and therefore the pressure vector taken up by the adult being the same.

The patent to VERINA does not disclose stirrups, but has been modified by the teachings of BUSH. As can be seen in Fig. 1 of BUSH, the child is not encouraged by the seat to have an upright sitting posture. This can be seen by the backward sitting stance of the child as compared to the adult's head in Fig. 1 of BUSH. If the adult wants to make the child vertical, then they lean forward, thereby putting themselves in an uncomfortable position. Weight distribution as obtained by the present invention cannot be had.

It is respectfully submitted that the device of the present invention is neither suggested nor rendered obvious by the prior art utilized by the Examiner. Apart from the independent claims, the dependent claims further distinguish the invention from the utilized prior art. For example, dependent claims 8 and 16 recite that the upper surface of the seat is forwardly inclined with respect to the horizontal plane. This arrangement does not seem

present in any of the prior art utilized by the Examiner. The decreasing thickness of the seat as recited in dependent claims 9 and 17, as well as the inclination as recited in claims 10 and 18 also appear to be lacking in the prior art. Nonetheless, it is respectfully submitted that the independent claim set forth a device which is neither suggested nor rendered obvious by the prior art utilized by the Examiner.

It is additionally questioned how one would attach the stirrups of BUSH to the seat of VERINA. As seen in Fig. 3, the seat is designed so that the child's legs extend to the bottom thereof. One skilled in the art, when looking at this seat, would not want to incorporate stirrups therein, as there would be no need for such stirrups. In fact, such extra stirrups would seem to be in the way. It is brought out in dependent claims 13 and 21, that the stirrups hang downwardly from the bottom of the leg section.

Dependent claims 14 and 22 further bring out the upright sitting nature of the child while the child sits adjacent the head of the adult.

Again, it is respectfully submitted that the prior art utilized by the Examiner would neither suggest nor render obvious the claims of the instant invention. Accordingly, it is

respectfully requested that the 35 USC 102(b) and 103 rejections now be reconsidered and withdrawn.

Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

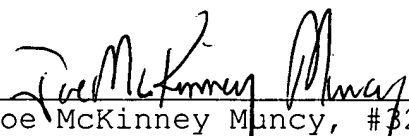
Because the additional prior art cited by the Examiner has been included merely to show the state of the prior art and has not been utilized to reject the claims, no further comments concerning these documents are considered necessary at this time.

In the event that any outstanding matters remain in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
Joe McKinney Muncy, #32,334

KM/asc

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000